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Mission in the Democratic Republic of Congo

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**REPORT OF THE UNITED NATIONS JOINT HUMAN RIGHTS OFFICE ON  
INTERNATIONAL HUMANITARIAN LAW VIOLATIONS COMMITTED BY  
ALLIED DEMOCRATIC FORCES (ADF) COMBATANTS IN THE TERRITORY OF  
BENI, NORTH KIVU PROVINCE, BETWEEN 1 OCTOBER AND 31 DECEMBER 2014**

**MAY 2015**

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## **LIST OF ACRONYMS**

ACHPR	African Charter on Human and Peoples' Rights
ADF	Allied Democratic Forces
ANR	National Intelligence Agency
CMO	Operational Military Court
CSAC	Audio-visual and Communications High Council
DDRRR	Disarmament, demobilization, reintegration, repatriation and resettlement program
DDR	Disarmament, demobilization and reintegration program
DRC	Democratic Republic of the Congo
DSF	Department of Border Security
FARDC	Forces Armées de la République démocratique du Congo
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
NALU	National Army for the Liberation of Uganda
PNC	National Congolese Police
OHCHR	Office of the United Nations High Commissioner for Human Rights
RCD/K-ML	Congolese Rally for Democracy/ Kisangani-Liberation Movement
UDHR	Universal Declaration of Human Rights
UNJHRO	United Nations Joint Human Rights Office

## **SUMMARY**

1. This report from the United Nations Joint Human Rights Office (UNJHRO), published jointly by the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) details grave violations of international humanitarian law committed by combatants of the Allied Democratic Forces (ADF) against civilians in the territory of Beni, in the province of North Kivu, in the Democratic Republic of the Congo (DRC) between 1 October and 31 December 2014. These violations were committed during the period of Operation Sukola I, launched jointly by the *Forces Armées de la République démocratique du Congo* (FARDC) and MONUSCO on 16 January 2014 against alleged ADF combatants, a rebel group from Uganda present for many years in eastern DRC.
2. Following 13 investigation missions carried out on the territory of Beni between October 2014 and January 2015 and increased monitoring activities in the period of the attacks by alleged ADF combatants against civilians between 1 October and 31 December 2014, the UNJHRO is able to confirm the summary executions of at least 237 civilians, including at least 65 women and 35 children (13 boys and 22 girls), the injury of 47 civilians, the rape of two others, the kidnapping of at least 20 civilians, the recruitment of children and the looting and systematic destruction of dozens of houses.
3. During the course of Operation Sukola I, members of the FARDC were also allegedly involved in grave human rights and humanitarian law violations, including the extrajudicial execution of 15 civilians and violations of the right to physical integrity of 12 others during two incidents. For these crimes as well as for acting in complicity with the ADF, outside of their main mission to track down the ADF in the context of the Sukola I Operation, Congolese authorities have arrested at least 33 members of the FARDC.
4. Human rights violations that were committed during the period considered were systematic and extremely brutal in nature. The summary executions and injuries were mostly perpetrated with machetes, axes, hammers, knives, heavy stones and clubs. Many civilians were tied up, mutilated or had their throats slit, while others were burned alive in their homes. Some of the civilians were shot and killed while they were trying to flee. Under international law, massive violations of international humanitarian law such as those committed by ADF combatants, by their type and their nature, may amount to war crimes and crimes against humanity, which are deemed as crimes which are not subject to a statute of limitations.
5. This report makes recommendations to the Congolese government as well as to the international community aimed at bringing an end to these violations and to support the Congolese authorities in their efforts to prosecute the perpetrators of these offences.

## **I. Introduction**

6. Since 2010, the UNJHRO<sup>1</sup> has documented humanitarian law violations alleged to have been committed by the ADF, an armed group that originated in Uganda and which had been present in the territory in Beni since 1995. Considering the information available to the UNJHRO, the number of killings, injuries, kidnappings, looting and destruction committed by ADF combatants has increased since the beginning of 2013. The number of attacks against the civilian population, indiscriminately targeting men, women and children, and their brutality intensified between 1 October and 31 December 2014 in the territory of Beni, where 35 villages are alleged to have been the target of attacks.
7. The current report describes violations committed by ADF combatants between 1 October and 31 December 2014 that UNJHRO was able to document during different investigation missions. These missions have shown that in some cases, the ADF acted with the complicity of different stakeholders. FARDC military were allegedly involved in two incidents which led to the extrajudicial execution of 15 civilians and to violations of the right to physical integrity of 12 others.
8. This report also highlights the vulnerability of the Beni population, often exposed to frequent acts of violence. It also details the actions taken by the Congolese authorities in regard to these violations.
9. This report makes recommendations to the Congolese authorities and to the international community aimed at bringing an end to these violations and bringing the alleged perpetrators to trial.

## **II. Methodology**

10. Between October 2014 and January 2015, the UNJHRO carried out 13 investigation missions in the territory of Beni, including in many locations where massacres were perpetrated, such as the villages of Ngadi, Eringeti, Oicha, Mbau, Ahili, Mazanzanba, Masulukwede, Mayi-Moya, Ndalia and Tepiomba<sup>2</sup>. Many missions were carried out jointly with other components of MONUSCO, including its military Force.
11. Human rights officers from UNJHRO conducted interviews with more than 180 victims as well as direct and indirect witnesses of the human rights and international human rights violations detailed in this report. Outside the territory of Beni, UNJHRO interviewed many victims who had been seriously injured in the attacks and had been evacuated to Goma by MONUSCO and by other humanitarian actors. UNJHRO also visited Medina, located at kilometer post 40

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<sup>1</sup> On 1 February 2008, the Human Rights Division of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), – known today as the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) – and the OHCHR in DRC were integrated into the United Nations Joint Human Rights Office (UNJHRO). This report is in line with resolution 2147 dated 28 March 2014 of the United Nations Security Council, which authorizes MONUSCO, in coordination with the UN Country Team and other actors to “*Monitor, report and follow-up on human rights violations and abuses*”, S/RES/2147 (2014), para 5 (d).

<sup>2</sup> The 13 investigation missions were organized during three time periods: 10 to 22 October 2014, 10 to 22 November 2014, and 8 December 2014 to 19 January 2015.

on the Mbau-Kamango road, where the most important ADF camp was located<sup>3</sup>. Excerpts from the testimonies of sources presented in this report are but a fraction of the information received and analyzed by UNJHRO during its investigations.

12. The UNJHRO staff also met with local authorities, civil society representatives, as well as national and international humanitarian organizations working in Beni territory. UNJHRO also supported and contributed to joint planning meetings between the MONUSCO Force, including its Intervention Brigade, and the FARDC. Moreover, in order to gather more information on the events, the UNJHRO team in Kinshasa monitored the detention of many individuals arrested in Beni for violations committed at the end of 2014 in the territory of Beni and transferred to other detention centers located in the capital.
13. The UNJHRO teams were faced with security challenges during the planning and conduct of the investigations, which restrained their access to certain areas, such as locations in the vicinity of Virunga National Park, Mabambila and Mayangose. Moreover, they had to comply with security measures implemented following attacks that targeted the staff and facilities of MONUSCO in Beni<sup>4</sup>. Nevertheless, by gaining access to areas where the displaced populations had sought refuge, the UNJHRO was able to gather testimonies from victims as well as direct and indirect witnesses whenever it was not possible to reach the scene of the alleged violations. UNJHRO was thereby able to corroborate and confirm the information documented in this report.

### **III. Context of the attacks in the territory of Beni**

14. For more than thirty years, the territory of Beni has experienced cycles of violence which are at the root of the grave human rights and humanitarian law violations committed against civilians. The natural resources of this region such as timber and gold, as well as its fertile land favorable for agriculture have continued to fuel the greed of politicians and local armed groups.
15. In 1995, after being driven out of Uganda from where its members originate, the ADF, an armed group with a radical Islamist orientation<sup>5</sup>, established its rear base in the territory of Beni following an alliance with the National Army for the Liberation of Uganda (NALU), another Ugandan rebel movement already present in the territory of Beni since 1988. This merger led to a new rebel entity known by

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<sup>3</sup> The Medina camp was the most important ADF camp, where Jamil Mukulu, the ADF leader, established his stronghold in order to organize trafficking activities and military training as well as manage operations. Jamil Mukulu lived there with combatants, their dependents and people kidnapped in the territory of Beni. The UNJHRO discovered on site underground prison cells used to hold kidnapped individuals.

<sup>4</sup> On 19 November 2014, around 7 p.m. in Mavivi (10 km north of Beni), a police patrol from the Indian contingent was ambushed by armed men – still unidentified at the time of writing. In February 2014, a staff member of the disarmament, demobilization and repatriation (DDR) section of MONUSCO was killed in Beni by armed men whose identity remains unknown. This murder prompted MONUSCO to relocate its non-essential staff for almost six months, from 7 February 2014.

<sup>5</sup> The ADF are deemed to belong to the Islamic movement Tabligh, which was formed in India in the 1920s. This movement spread to Uganda in the 1970s.

its acronym "ADF-NALU". The common objective of those two armed groups was to overthrow the Ugandan government.

16. In December 2007, the NALU combatants surrendered<sup>6</sup> and Jamil Mukulu became the leader of the ADF movement. His group then apparently invested in local economic activities in Beni and in the illegal traffic of natural resources such as timber and gold, while forming close ties with local leaders and FARDC officers. Among these officers, some were former members of local rebel movements<sup>7</sup>.
17. As indicated above, the violations of international humanitarian law and human rights violations documented in the current report were committed during the military operation Sukola I, launched jointly by the FARDC and MONUSCO against the ADF since 16 January 2014. This operation enabled many of the group's positions to be taken, such as several camps between Mbau, Kamango and the Ugandan border. In April 2014, the camp of Medina, considered to be Jamil Mukula's stronghold, which was located in the middle of the jungle at kilometer post 40 between Mbau and Kamango, was also taken by the FARDC. However, some residents in Beni have declared having noticed an increase of the violence committed by ADF since September 2014, following a change in the FARDC leadership of the operations against the ADF.
18. Further, the massacres of civilians in Beni were exploited for political reasons by some local political stakeholders who accused their political rivals, and in particular the leader of the opposition party Congolese Rally for Democracy/Kisangani-Liberation Movement (RCD/K-ML), Mbusa Nyamwisi<sup>8</sup>, of being responsible for the massacres.
19. Left on their own in a context of insecurity and political tension, the civilian populations of Beni territory organized themselves and created different self-defense groups, thus fuelling an atmosphere of suspicion and mistrust towards any outsider to their community.
20. Attacks against civilians grew in intensity as a trial opened in Beni on 1 October 2014 against FARDC military and ADF combatants accused of killing, on 2 January 2014, FARDC General Mamadou Ndala<sup>9</sup>.

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<sup>6</sup> In 2007, the NALU combatants and seven of their leaders benefitted from the Disarmament, demobilization, reintegration, repatriation and resettlement program (DDRRR) program of MONUC, as part of the peace talks with Kampala. On 17 March 2008, Kampala recognized the Kingdom of Rwenzururu, thus meeting the most important demand of the NALU combatants.

<sup>7</sup> See the Final Report of the Panel of Experts on the DRC dated 23 January 2014 and International Crisis Group, Eastern Congo: The ADF-NALU's Lost Rebellion, Policy Briefing, no 93, 19 December 2012.

<sup>8</sup> Antipas Mbusa Nyamisi, president of RCD/K-ML occupied Beni and the region during the second Congo War and had fought against Laurent-Désiré Kabila. After the reunification and the presidential elections of 2006, he occupied two different ministerial positions under Joseph Kabila before joining the opposition. He currently lives outside the DRC.

<sup>9</sup> Mamadou Ndala was, at that time Colonel, Commander of the 8<sup>th</sup> Military Legion and Commander of Military Operations in the Great North of the North Kivu province. After the fight against the *Mouvement du 23 mars* rebellion, he went on to fight the ADF.

#### **IV. Legal framework**

21. The FARDC and non-state actors such as the ADF are bound by the international humanitarian law applicable to non-international armed conflicts as set out in the common Article 3 of the four Geneva Conventions of 12 August 1949, as well as by customary international law, which guarantees the protection of persons who are not or are no longer directly participating in hostilities. Moreover, on 11 November 2001, the DRC ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which provides that the State has the obligation to take all necessary measures to ensure that no child is recruited by non-state armed groups.<sup>10</sup>
22. The human rights violated by the FARDC are protected by many international instruments ratified by the DRC, including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights. They are also protected by the Universal Declaration of Human Rights, many provisions of which are considered to be customary international law. In line with this legal framework, the Congolese state is obliged to respect these standards and take the necessary measures to prevent and condemn the violation of the rights protected by the treaties it has ratified, whether committed by its security forces or by non-state actors.
23. As the attacks described in the present report were committed in a generalized and systematic manner, some of the violations documented could constitute crimes against humanity as set out in Article 7 the Rome Statute of the International Criminal Court, ratified on 30 March 2002 by the DRC and consequently directly applicable in Congolese criminal law. Most of the violations presented in this report were committed in the context of a non-international armed conflict and thus constitute violations of common Article 3 of the four Geneva Conventions of 12 August 1949 as well as violations of international customary law. They could also constitute war crimes as set out in Article 8 (c) and (e) of the Rome Statute. These violations can also be recognized as crimes according to Congolese criminal law.
24. Moreover, human rights and humanitarian law violations that were committed by FARDC members during two specific incidents in Beni can be considered as crimes according to Congolese and international criminal law, in particular murder and deliberate physical attacks, which each constitute a crime punishable by imprisonment.

#### **V. Identification of alleged perpetrators**

25. According to information gathered by UNJHRO, ADF combatants seem to be the main perpetrators of the humanitarian law violations outlined in this report. Some witnesses and victims have described their aggressors as wearing civilian clothes,

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<sup>10</sup> See the observations of the Child's Rights Committee on the initial report submitted by the DRC (CRC/C/OPAC/COD/CO/1 of 7 March 2012).

while others have stated that they were entirely or partially dressed in former or new military attire from the Congolese army that they must have acquired.

26. The victims and witnesses interviewed by UNJHRO have moreover indicated that the assailants spoke Kiganda, Swahili with a local or Ugandan accent, Kinyarwanda or Lingala<sup>11</sup>. If the central command, as well as some of the ADF combatants, are of Ugandan nationality, the majority are of Congolese nationality and are from different areas of North Kivu, which could explain the diversity of the languages spoken by the assailants.
27. According to the information gathered by UNJHRO, local stakeholders – both the authorities and ordinary citizens – might have offered assistance in terms of logistics and information to the ADF in carrying out their attacks, probably motivated by links forged with the group since the beginning of their presence in the Beni territory.
28. Moreover, UNJHRO investigations have revealed that some FARDC soldiers who were deployed during Sukola I might have acted outside of their mandate and committed human rights and humanitarian law violations, including the extrajudicial execution of 15 civilians and the infringement of the physical integrity of 12 others during two incidents, in Oicha on 8 October and in Ndalia in the night of 25 to 26 December 2014. The involvement of FARDC military units could be explained by long-standing ties between some of them and the ADF in the territory of Beni, especially in relation to the illegal exploitation of natural resources.
29. The sentencing of two FARDC officers, including Lieutenant Colonel Birotsso Nzanzu, by the Operational Military Court of North Kivu on 17 November 2014 for the assassination of General Mamadou Ndala on 2 January 2014<sup>12</sup> and for having participated in an insurrectional movement, as well as the arrests of at least 33 FARDC military, including officers, for complicity with the ADF in the massacres, indicates the magnitude of this collusion. This also emphasizes the efforts made by the Government to prosecute the alleged perpetrators of these human rights and humanitarian law violations committed in the territory of Beni.

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<sup>11</sup> Swahili and Kinande are the languages commonly spoken in the territory of Beni. Kiganda is a language spoken in Uganda and Kinyarwanda, the official language in Rwanda, is spoken by several communities in Goma and Bukavu.

<sup>12</sup> Lieutenant-Colonel Birotsso Nzanzu Kossi was a FARDC officer from the Department of Border Security (DSF) and a liaison officer between the DRC and the Republic of Uganda. Within Operation Sukola I, he was in charge of intelligence. Until 2003, he was in charge of intelligence within the “Armée populaire congolaise”, the military branch of the RCD/K-ML of Mbuza Nyamwisi. The trial revealed that Lt. Colonel Birotsso maintained ties with the ADF while a member of the FARDC. According to a former ADF combatant, who testified anonymously during the trial, Lt. Colonel Birotsso has allegedly received 27,000 US dollars for the assassination of General Mamadou Ndala, and had allegedly provided information, weapons and military equipment to the ADF. Lt. Colonel Birotsso, who rejected these accusations, was sentenced, as well as another FARDC Lieutenant-Colonel, Jocker Kamulete. During this trial, four ADF leaders, including Jamil Mukulu, were condemned *in absentia* by the Congolese military justice in Beni.

## **VI. Modus operandi**

30. The attacks against the civilian population in the territory of Beni were executed in a systematic manner, with extreme brutality. The investigations of the UNJHRO revealed that the perpetrators indiscriminately targeted men, women and children. This *modus operandi* allowed them to kill the maximum of individuals within a very short timeframe. The assailants were divided into different mobile groups of six to several dozens of individuals and used various methods that slow down alerts. The majority of the attacks were effectively carried out at sunset, when the population was returning from working in the fields. Most of the victims were killed by machetes, axes and hammers in order to avoid making noise.
31. Information collected by UNJHRO has revealed that the assailants mainly struck the head of their victims, giving them no chances of survival. A health practitioner of the territory of Beni, who treated dozens of victims of these attacks, declared to the UNJHRO that: "*When they strike, they are looking for the occipital section of the head. They hit with the hammer and, as soon as the person is on the ground, they try to crush the head or cut the neck of the victim afterwards*". Many victims were thus decapitated, some of them after having been tied up. The investigations led by the UNJHRO have also revealed that, in some cases, the assailants used firearms against victims who were trying to flee, most probably with the intention of killing them as quickly as possible and preventing them from raising the alarm.
32. According to information obtained by the UNJHRO, many attacks were carried out with the participation of the women and children – boys as well as girls – who were accompanying the assailants. According to testimonies from the survivors, while the men were murdering civilians, the women and children looted the houses, and took with them food and livestock that was easy to transport. Some testimonies revealed that, in some cases, children were forced to slit the throat of the victims who had first been neutralized by ADF combatants. The assailants burned down several villages after the attacks, and some victims were burned alive in their house.
33. On four occasions, the assailants distributed numerous flyers, in English and in Swahili, in the localities of Oicha, Mayimoya, Beni and Eringeti, to warn about future attacks. In one of these flyers, it was written in Swahili: "*You, the population, we are going to kill you because you have provoked us too much. The same goes for the FARDC with whom we used to live without any problems. (...) Don't be surprised to see us killing children, women, elderly (...). In the name of Allah, we will not leave you alone.*" This demonstrates the premeditated nature of the attacks, presented to the civilian population as retaliation following military operations led by the FARDC, as well as against certain locality leaders who had stopped obeying the ADF.

## **VII. Violations of international humanitarian and human rights law**

### **7.1 Killing and injury of civilians by ADF combatants**

34. UNJHRO was able to document cases of violent attacks targeting at least 35 villages located in the clusters of Bambuba Kisiki and Batangi Mbau. Three other attacks also took place in the outskirts of the city of Beni, namely the neighborhoods of Ngadi, Kadolu and in the district of Rwenzori. According to UNJHRO reports, these attacks indiscriminately targeted populations in those localities belonging to the Nande, Hema, Mbuba, Mbatalinga and Muyali ethnic groups.
35. These attacks occurred almost every week, with different levels of intensity during the period under consideration. Some of them were extremely violent, such as in Ngadi and Kadolu, on 15 October 2014, where at least 30 civilians were killed; in Eringeti, on 17 October 2014, where no less than 22 people were killed including 10 children and eight women; in Masulukwede, Tepiomba and Vemba, on 20 November 2014, where at least 58 civilians were executed; and also at Ahili and Mazanzanba, on 6 December 2014, where 36 civilians were killed.
36. In total, at least 237 civilians were executed by ADF combatants, including at least 65 women and 35 children (13 boys and 22 girls). Except four who were shot dead, the victims were all killed with edged weapons - machetes, axes, knives, and hammers. Following the 17 October 2014 attack in Eringeti, 10 children had their throat slit and were cut with machetes and at least eight women were killed by machetes. This was perceived by the population as a strong message that assailants would show no mercy to anyone, including the most vulnerable.
37. A resident of the locality of Mukoko aged 17, who was an eyewitness of the 1<sup>st</sup> October 2014 attack told UNJHRO: "*I witnessed my uncle getting beheaded at his home. The attackers were armed, some with machetes and guns and others with knives. Some spoke the Kiganda language, others local Swahili. They were many of them and they surrounded the house. I can't give an accurate estimate of their number, but from their footsteps, I could feel that they were many. Once they entered the compound, the attackers called my uncle by his name and ordered him to open the door. As he refused, they opened fire on the house, shooting through the window and tried to break down the door. My uncle finally gave way and opened the door. They caught him at the door and dragged him into the yard. They beheaded him with knives. Before cutting off his head, they gouged out his eyes then cut his face. They accused him of serving as a tracker for the FARDC.*"
38. A resident of Kadolu, victim of the 15 October 2014 attack in Beni, describes this assault in which at least 30 civilians were killed: "*I was with my son in front of my house at Kadolu after returning from my farm. A group of about 13 people, including a woman, broke into my compound. Among them, some were in civilian clothes; others were dressed partially in civilian clothes and partially in military. Some were armed with guns and machetes, others with knives. They assaulted us and forced us to take them to the chief of the locality. Before leaving, the woman who was in the group untied the goat that was kept behind the house. On the way to the residence of the chief, I begged them to release me with my son, which is*

*when one of them hit me twice with his machete, the first time on my forehead, and the second on my right ear. I fell down and I told my son to run away. Meanwhile, the assailants had begun to attack other houses. I therefore took the opportunity to get up and hide behind a house."*

39. Survivors of attacks on 6 December 2014 against the villages of Ahili 2 and Manzanzaba, during which at least 36 civilians were killed, told UNJHRO investigators that the chief of Mazanzanba and at least 10 members of his family were burned alive in their home. At Ahili 2, the UNJHRO teams also found a mass grave where at least ten bodies were allegedly buried in the morning of 7 December 2014, the day after the attack on the village.
40. UNJHRO has documented that at least 47 civilians, including 13 women and 10 children (seven boys and three girls), were seriously injured, mostly by machete, by ADF combatants during the attacks described in this report. The lives of most of the survivors were saved because assailants thought they were dead and abandoned them. The UNJHRO interviewed people who had stab wounds to the head, neck and arms. Many victims found it difficult to talk to UNJHRO investigators as they were severely traumatized.
41. One victim of an attack which left at least 17 dead on 7 December 2014 in the neighboring villages of Mulole and Makambakamba, made the following declaration to the UNJHRO: "*I arrived next to my house, and a group of attackers, whom I had met, armed with guns, machetes and axes came from behind along with others. They hit me and I fell down. Then one of the attackers asked me: 'Do you want to be killed by gun or by machete?' At that juncture, they started cutting me with a machete first on my arms, then on my head and neck. They left, abandoning me on the floor.*"
42. Another victim of an incident that took place in Mamove on 7 December 2014 told the UNJHRO: "*I left my house in Oicha on my bike to go to my field in the village Mbogi through Mamove. On my way, I found another farmer who was on his bike going in the same direction as me. We were caught in an ambush by many armed individuals including men, women and children wearing military green uniforms. The men were speaking Kinyarwanda, the women were in civilian clothes and were carrying infants. They ordered us to lie down on the floor. They were carrying guns, knives, machetes and axes. We were three men lying on the ground and they began to cut us with their machetes. As they thought that we had died they left. As I was cut on the neck and on my head, I fainted and after a while I woke up, got up and realized that I was seriously bleeding, I left two bodies lying on the ground and despite the pain in my head and the dizziness, I took my bike and rode to Malibo village.*"

## **7.2 Sexual Violence by ADF combatants**

43. UNJHRO has documented cases of two female victims of sexual violence, including a minor. These violations were committed by ADF fighters during the Linzosisene attack on 5 October 2014. The minor was killed by the attackers after being raped. Moreover, during this attack, pieces of wood were introduced into the private parts of a woman from the locality, causing serious injury.

### **7.3 Abduction and arbitrary deprivation of liberty by ADF combatants**

44. UNJHRO has documented at least 20 cases of abduction of civilians during attacks perpetrated by ADF elements. Victims included both men and women, who were mainly abducted in order to carry goods that had been plundered. During the period under consideration, nine people were freed, including several who had been abducted before the period under review, after an operation conducted by FARDC soldiers against the assailants.
45. On 12 November 2014, UNJHRO interviewed a 26-year-old Ugandan survivor of an attack, who had managed to escape from her captors, in a detention center of the FARDC intelligence services where she had been placed for the completion of formalities before being repatriated to Uganda. She stated: "*I was kidnapped at the age of nine in my village in Uganda in 1997 by ADF/ NALU Ugandan rebels. Four other people were abducted that same day and in the same circumstances: my big sister, my father, my cousin and an unknown man. We were taken to one of ADF bases in Rwenzori in the territory of Beni and once there, we were separated. In the ADF base, I was in a house with four other children, two women and two men, all of them Ugandans and all subjected to forced labor as porters of ammunition, weapons and food rations. At the age of 13, I was forced to live with an ADF rebel. I had three children: two of them died and the last, aged one, is the only one alive. I managed to escape in October 2014 by seizing the opportunity during a confrontation between the ADF and the FARDC. I walked in the bush for a month with the intention of returning to Uganda<sup>13</sup>.*"

### **7.4 Looting and other illegal appropriation of property by ADF combatants**

46. During the 35 attacks against villages documented by the UNJHRO in the territory of Beni, ADF combatants engaged in the systematic looting, destruction of homes, and theft of domestic animals, food and other goods (such as clothing and kitchen utensils).
47. For example, some witnesses reported that the village called Apetisana was attacked on 3 October 2014 at about 11 p.m., by at least a hundred assailants, including armed men, but also women and children. During this raid, the combatants looted food and valuables. On 6 December 2014, at Ahili and Mazanzanba several houses were set ablaze as documented by UNJHRO during a field visit to the village on 7 December 2014.
48. UNJHRO was informed that, during the attack on Eringeti on 1 December 2014, the pediatric ward of the hospital was damaged by bullets while at least 20 children were still inside. However, none of these children was harmed.
49. According to information collected by UNJHRO after the raids, attackers often retreated to locations close to the villages. On a regular basis, various sources informed UNJHRO investigators that they were often forced to abandon their

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<sup>13</sup> According to information gathered by UNJHRO, following the launch of Operation Sukola I, the FARDC recorded the return of 220 people kidnapped earlier by ADF combatants. Shortly before the beginning of the September 2014 massacres, UNJHRO interviewed some of the victims. A visit conducted by UNJHRO, on 8 January 2015 to Medina –Jamil Mukulu's main camp - has corroborated allegations made by the victims interviewed in September 2014, according to which the captives were held in underground holding cells. UNJHRO discovered and documented these holding cells at the camp in Medina.

farms out for fear of being killed. Moreover, with the destruction of houses, populations also had to abandon their villages.

### **7.5 Recruitment of children by ADF**

50. Testimonies gathered by UNJHRO revealed that ADF combatants compelled the active participation of minors, both girls and boys, under their control, in the perpetration of the serious violations described in this report.
51. For example, a victim of the attacks in Linzosisene on 5 October 2014 reported the following to UNJHRO investigators: "*The assailants wore military camouflage uniforms like those of the FARDC. Among them, there were four adults and the rest were children.*" A 14 year old boy who had allegedly lost several family members in the attack on the town of Eringeti on 17 October 2014, a direct witness of the incidents, gave the following first-hand account of the incident to UNJHRO: "*Combatants came to our home. They forced me to accompany them to a neighbor's house. Some attackers were in military uniforms, others in civilian attire. There were about twenty of them. There were no women, but some looked young, as if they were minors.*"
52. According to the testimonies, girls were used to transport pillaged goods such as foodstuffs and livestock, while boys were used as combatants and in some cases forced to decapitate victims.
53. Another witness of the 20 November 2014 incidents perpetrated in the localities of Masulukwede, Tepiomba and Vemba informed UNJHRO investigators that: "*Among the dead, there were people tied up with ropes. Then the attackers hit them on their heads and after that the children came to cut them.*"

### **7.6 Violations of human rights and international humanitarian law by FARDC soldiers**

54. The UNJHRO also documented the involvement of some FARDC soldiers in violations of human rights and international humanitarian law during two incidents, in which 15 civilians were killed and the physical integrity of 12 others was violated. These soldiers were acting on their own initiative, outside the context of the military Operation Sukola I in which they were deployed, and in complicity with ADF combatants.
55. According to information reported to UNJHRO, on 8 October 2014 in Oicha, eight civilians were killed and six others wounded by soldiers from the 809<sup>th</sup> Regiment of the FARDC based in Oicha operating with ADF combatants. A survivor, who was left for dead in the incident, told UNJHRO that an FARDC officer of the 809<sup>th</sup> Regiment had ordered two of his soldiers to cut his throat. UNJHRO noted marks of these injuries on the neck and also on the head of the victim.
56. In the night of 25 to 26 December 2014 in Ndalia, a village north of Eringeti, on the border with Orientale province near Luna, seven civilians were reportedly killed by knives and six others shot and wounded by soldiers belonging to the 905<sup>th</sup> FARDC Regiment based in Ndalia. Reportedly, ADF combatants were also

present in the area and participated in the killings along with some soldiers with whom they had previously planned the attack.

## **VIII. Response of the Congolese authorities**

57. According to information gathered by UNJHRO, at least 300 people were arrested in Beni between October and December 2014, including at least 33 FARDC soldiers, in the context of search operations and investigations initiated by the Congolese authorities in a bid to shed light on the killings that occurred in Beni between 1 October and 31 December 2014 and to bring to justice the alleged authors of the serious violations documented in this report. Following these large scale massacres, the authorities proceeded to the deployment and reinforcement of its police and military contingents on the ground.
58. In early November 2014, about 200 civilians<sup>14</sup> were arrested by agents of the Congolese National Police (PNC) during an operation aiming at restoring security in the town of Beni, following a wave of attacks perpetrated by the ADF. During this operation, ammunition, military equipment and HF radios were seized in different houses.
59. Moreover, between 18 October and 22 November 2014, 81 people were arrested in Beni and transferred to Kinshasa in the framework of an investigation into the massacre in Beni by ADF combatants. Among those transferred were 30 FARDC soldiers and 51 civilians accused, among other things, of espionage, participation in an insurrectional movement and illegal detention of arms and ammunition. According to information gathered by UNJHRO, four of these people are FARDC officers. Among the civilians, 10 individuals, including two women, were arrested by the services of the National Intelligence Agency (ANR) in Beni, accused of financially supporting the RCD/K-ML considered by the Government to be an ADF ally.
60. In addition, the Beni garrison military prosecutor arrested an officer of the 809<sup>th</sup> FARDC Regiment and two of his soldiers in connection with the incident in Oicha on 8 October 2014, following which eight civilians were killed and six injured by FARDC soldiers.
61. Between 28 November and 6 December 2014 during visits to FARDC detention centers in Beni, including those of the intelligence services and the *auditorat militaire de garnison*, UNJHRO recorded the presence of 13 civilians accused of collaboration with the ADF, including four customary chiefs from Beni and Eringeti<sup>15</sup>. On 17 January 2015, all four were transferred to Kinshasa by FARDC intelligence services. According to them, these chiefs are allegedly part of a network of local collaborators of the Ugandan rebel group.

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<sup>14</sup> Among the civilians, there were members of the opposition party RCD/K-ML and local traders.

<sup>15</sup> In the night of 19 to 20 December 2014 in Beni, a group of Mayi Mayi of the "Diacre" group attacked the garrison military prosecutor's office in Beni in order to free one of the four customary chiefs. Fourteen people were arrested and tried for this attack. On 13 January 2015, 11 defendants were convicted with sentences ranging from five years of imprisonment to death penalty and were later transferred to Kinshasa.

62. UNJHRO welcomes the commencement of preliminary investigations by the Congolese justice system into crimes committed during the attacks in the territory of Beni. In November 2014, a criminal investigation was opened by the Beni garrison Military Prosecutor into charges of murder as a crime against humanity. A military justice team visited Ahili and Mazanzanba on 7 December 2014 and later Eringeti between 12 and 15 January 2015, as part of this investigation.
63. At the local level, on 3 November 2014, authorities in the territory of Beni instituted a curfew between 6:30 p.m. and 6:00 a.m. throughout the entire territory, in light of the *modus operandi* of the assailants who usually rather attacked at dusk. This measure may have helped to limit the risk to the population of being taken by surprise by attackers in unsecured areas.
64. In Beni, given the seriousness of the incidents, FARDC soldiers have intensified joint offensives with MONUSCO, especially with the Mayangose, Umoja I, II and III maneuvers, conducted between November 2014 and January 2015. During the reporting period, these operations led to the dismantling of several ADF camps, including those of Braida, Issa, Canada, Pilote and Musana. During these operations, ADF combatants were reported killed, arms were seized, and several documents regarding the movement of combatants were found.
65. On 14 November 2014, the Ministry of Media, in charge of relations with the Parliament and initiation of new citizens, announced in a press release the temporary closure of five radio and television stations, namely: *Radiotélévision Graben*, *Radio Ralib*, *Radiotélévision Rwanzururu*, *Radio Ngoma FM* and *Radio Fourou*. The Minister accused these media outlets of being: “*accomplices of negative forces that perpetrate acts of terrorism in the North*<sup>16</sup>”. This decision was interpreted by the population as an infringement of the right to freedom of expression, particularly in light of the pre-electoral context.
66. UNJHRO met with two editors of these media outlets who criticized the measure as arbitrary. They emphasized the non-compliance with established rules governing the suspension and/or closing of audio-visual media. In January 2015, a delegation of the Audiovisual and Communication Superior Council, the regulatory body for the media sector in the DRC, visited the town of Beni to assess the implementation of the measures taken by the Ministry. *Radiotélévision Graben* was reopened following this mission, but the other radio stations remained closed at the time of writing.

## **IX. Measures taken by MONUSCO and the international community**

67. From the beginning of the series of large scale massacres against civilians, MONUSCO strengthened its presence in the territory of Beni, as well as its support to the FARDC *via* joint operations. These measures aimed at improving the protection of civilians and supporting the FARDC, in line with MONUSCO's mandate.

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<sup>16</sup> Press release by the Minister of Media, issued on 14 November 2014.

68. As a result, on 29 October 2014 a Malawian company of the Force Intervention Brigade was deployed to Beni as reinforcement. In addition, day and night air patrols were increased. Between October and December 2014, at least 60 air reconnaissance patrols were conducted, while attack helicopters MI-24 and MI-27 made at least 21 flights to support ground operations. An average of 130 military and police motorized night patrols were conducted every month between October and December 2014. As of 8 December 2014, the Mission started using its unmanned aerial vehicles to obtain more information about the positions of ADF combatants.
69. All these measures contributed in significantly reducing the number of attacks after December 2014 in the territory of Beni. Moreover, several search and rescue missions were conducted by UN forces and humanitarian actors, including operations to evacuate wounded civilians and to facilitate humanitarian assistance to displaced populations.
70. The difficult nature of the terrain and the high mobility of ADF combatants proved challenging for MONUSCO forces who therefore set up a toll free number, in cooperation with the FARDC and local authorities, to enable the population to alert them in case of attack.
71. In addition, many outreach activities were conducted by different components of MONUSCO in order to explain the challenges relating to operations and to seek cooperation from the population in order to increase the efficiency of the Mission, including its Force.

## X. **Conclusions and recommendations**

72. Following its investigation, the UNJHRO can confirm that, between 1 October and 31 December 2014, during attacks perpetrated by ADF combatants on 35 villages in the territory of Beni, at least 237 civilians were subject to summary executions, 47 others were injured, two rape victims, at least 20 civilians were abducted, and an unknown number of houses looted and destroyed. Victims and witnesses moreover reported that there were some children amongst the ADF elements who participated in these attacks.
73. The ADF continues to represent a harmful and threatening group to the civilian population as long as its leaders have not surrendered or have not been captured. UNJHRO has received information that, since January 2015, the threat has been extended to the territory of Irumu in Orientale province, on the border with the territory of Beni, where violations have been reportedly committed by alleged ADF combatants.
74. The violations of human rights and international humanitarian law attributed to some FARDC soldiers, in complicity with ADF combatants, during the two attacks that occurred in the territory of Beni are of particular concern. During these attacks, certain FARDC units were involved in the extrajudicial execution of 15 civilians and also in the violation of the physical integrity of 12 other civilians during incidents in Oicha on 8 October and in Ndalia on 25 December 2014.

75. At the time this report was drafted, the military justice authorities in Beni had arrested an FARDC officer and two of his soldiers who allegedly participated in the Oicha attacks and 30 other soldiers had been arrested in Beni and transferred to Kinshasa on charges of spying, participation in an insurrectionary movement, illegal possession of weapons of war and ammunition within the context of the Beni massacres. In light of their type and nature and considering the context in which these violations were committed, they could constitute international crimes as well as serious offences under Congolese criminal law.

76. In view of the foregoing, the UNJHRO recommends:

**To the Congolese authorities:**

- To take urgent action to put an end to attacks on civilians in the territory of Beni and to fully and effectively protect the population;
- To conduct prompt, independent, credible and impartial investigations into human rights violations and violations of international humanitarian law committed in the territory of Beni and, should credible evidence on these crimes be gathered, bring to justice all perpetrators of these violations, including FARDC soldiers allegedly involved, regardless of their rank;
- To take steps to stop any illegal exploitation of Beni territory's natural resources that is fueling armed conflict in the region.

**To the international community:**

- To provide all necessary support to Congolese authorities in the prosecution of those responsible for human rights and international humanitarian law violations;
- To ensure that all the support provided to security forces in the DRC by the United Nations system and other partners are in strict compliance with the Human Rights Due Diligence Policy, to ensure that support is only provided to units whose members do not have a track record of serious human rights and international humanitarian law violations;
- To engage the signatories of the Framework Agreement for Peace, Security and Cooperation in the DRC and the Great Lakes region to fully implement their commitments, including those relating to the return of ex-combatants to their country of origin once they have been disarmed and found not to be responsible for war crimes and crimes against humanity.

**Annex:** The Territory of Beni

Territoire de Beni

